



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/288,229	04/08/1999	CHARLES T. FERGUSON	2479.1012000	7202

21005 7590 02/25/2004

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

EXAMINER

GESESSE, TILAHUN

ART UNIT PAPER NUMBER

2684

DATE MAILED: 02/25/2004

20

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/288,229

Applicant(s)

FERGUSON ET AL.

Examiner

Tilahun B Gesesse

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 13-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 36-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. This is in response to applicant's amendment and response filed December 18, 2003, in which claims 1-12 and 36-49 are pending.

Claim Rejections - 35 USC § 112

2. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 1 and 6, the subject matter that is included in the amendment is not supported by the specification as originally filed. Such as "transmitting a first portion of the payload data over the first traffic channel to the base station transceiver and transmitting a second portion of the payload data over a second traffic channel to the base station transceiver". The specification as originally filed on page 4 lines 25-27, wireless access device 103 can transmit payload data to the base station at step 203, and the payload data ultimately intended for a network. Once the payload data is sent, then, wireless access device 103 can send a release, prompting the base station to release the traffic channels. In this regard, the specification does not reasonably convey to one skilled in the art, that the payload being transmitted in two separate portions at two different intervals of times.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 and 36-43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al (6,438,119) "Kim" in view of Jawanda (6,243,581).

As to claims 1,36 Kim disclose a method for accessing data from a network via a wireless communication link (fig.4), the method comprising the steps of: at a subscriber transceiver (MS) in an idle mode (hold state) when no channels are allocated for sending payload data (DMCH) request (DSCH) (413), the payload data intended to be transmitted over the wireless communication link (column 10 lines 4-11 and fig.4). Kim also discloses in response to detecting a presence of the payload data "message" (see fig.2B), requesting use of a first traffic channel by sending a traffic channel allocation request message (411 of fig.4), the first traffic channel including traffic channels that the subscriber transceiver uses to transmit the payload data over the wireless communication link to a base station transceiver (column 10, lines 29-41 and fig.4) and transmitting the payload data over the first set of traffic channels to the base station transceiver (in active state supplemental channel release response -DMCH (425) (column 10, lines 30-41 and figure 4). Kim does not expressly disclose the mobile station interfaces a computer device. However, Jawanda, with similar field of endeavor, discloses a mobile terminal that interfaces with network and establishes a communication by requesting a connection with base station (30) (col. 4 lines 31-60 and figures 1 and 4). Since, Kim requests traffic channel in order to transmit payload data to base station, therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention was made to modify Kim interfacing a computer , as taught by Jawanda, in order to solve efficiently manage bandwidth of the network as taught by Jawanda.

As to claims 2,7,37, Kim discloses the payload data is transmitted via code division multiple Access modulated radio signals (column 2 lines 48-61).

As to claim 3,39 Kim discloses transmitting a message to release the first set of traffic channels after the payload data is transmitted (figure 4, the MS release supplemental channel request then the BS releases the payload).

As to claim 4,8 Kim disclose receiving an assignment of a second set of traffic channels, the second set of traffic channels including at least one traffic channel (before the T active expires the mobile station requests set of traffic channels, see 423 of fig.4) and receiving payload data over the second set of traffic channels (see 425 of fig.4).

As to claim 5, Kim discloses the first set of traffic channel is released based upon a request message from the subscriber transceiver (column 10, lines 35-41).

As to claim 6, Kim discloses all the limitation for the same reason as explained in claim 1.

As to claims 9-11, Kim discloses receiving a request for additional traffic channels and the sending an assignment of a second set of traffic channels is achieved by sending the message on a forward control or non-traffic channel (the exchange of request at an idle (hold state) is repeated, column 10, lines 42-60 and figure 4).

As to claim 12, Kim discloses the request for additional traffic channels includes information including a number of channels needed (supplemental channel request and

Art Unit: 2684

reverse supplemental channel assignment , indicates that additional traffic channels to a conventional channel request is placed, figure 4).

As to claim 38, Kim discloses the target transceiver (BS), transmitting a message to the subscriber transceiver indicating that traffic channels are being de-allocated (NACK/ACK message exchanges between the mobile and base station , NACK-negative acknowledge "de-allocated" , column 10 lines 60-68).

As to claims 40-43,49, Kim discloses low-bandwidth timing signals are transmitted from the subscriber transceiver to the target transceiver when the subscriber transceiver is in the idle mode (the control channels are considered as low-bandwidth timing signals as shown by figure 4)..

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 44-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al "Kim".

As to claim 44, Kim discloses a method supporting communication of information over a wireless link,(fig.4) transmitting a data payload over the wireless link from a subscriber transceiver to a base station transceiver using assigned traffic channels (423, supplemental channels release requested) (column 10, lines 30-38 and figure 4) at the subscriber transceiver, detecting that the data payload has been transmitted to the base station transceiver (upon detecting data payload the mobile station switch from hold state to active state, column 10, lines 19-27), and transmitting a message from the subscriber transceiver to the base station transceiver indicating a request that previously assigned traffic channels be de-allocated (column 10, lines 60-68, ack. message is transmitted by mobile station to base station, for the base station) .

As to claim 45, Kim discloses a release of traffic channels results in a subscriber transceiver being placed in an idle mode in which no traffic channels are assigned for use (in hold state requested supplemental channel (413) and supplemental channel release request (423)"traffic" subsequently the base station release supplemental channel which includes payload data and figure 4).

As to claim 46, Kim discloses at the subscriber transceiver, detecting that the data payload is transmitted to the base station transceiver (supplemental channel release response (425) (figure 4) and from the subscriber transceiver, sending a request to release previously assigned traffic channels (423) (see figure 4).

As to claim 47, Kim discloses in response to request to release previously assigned traffic channels, transmitting a message from the base station transceiver to the subscriber transceiver that traffic channels are being de-allocated for use (mobile station and base station exchange acknowledge signal to base station, column 10, 60-68).

As to claim 48, Kim discloses all the limitations as explained in the method claim 44, and further more, Kim discloses means (511) for storing at least part of a data payload at a subscriber transceiver for transmission over the wireless link to a base station transceiver when no traffic channels are assigned for use (column 11, lines 11-25).

Response to Arguments

6. Applicant's arguments filed 12/18/03 have been fully considered but they are not persuasive for the following reasons.

On page 9, fifth paragraph of response, applicant argued that neither of the prior art teaches multiple traffic channel are used to transmit the payload data over the wireless communication link.

The examiner disagrees. Kim teaches a communication system in which on control hold state "idle mode" the mobile station signals reverse supplemental channel request (DMCH) 413 to base station and the base station signals reverse supplemental channel assignment (DMCH) 415 and during active state the mobile station transmits supplemental channel release to transmit a packet data to base station (column 10, lines

4-55 and figure 4). Kim teaches uses plurality of traffic channels to transmit packet of data (payload) to base station.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2684

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TBG

Art Unit 2684

February 20, 2004


TILAHUN GESESSE
PATENT EXAMINER
